The Legislative Assembly of
British Columbia

SPECIAL COMMITTEE TO REVIEW THE POLICE COMPLAINT PROCESS

FIRST REPORT

May 2002

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102-05714/

May 30, 2002

To the Honourable,
The Legislative Assembly of the
Province of British Columbia
Victoria, British Columbia

Honourable Members:

Pursuant to the Committee's Terms of Reference, we have the honour to present herewith the *First Report* of the Special Committee to Review the Police Complaint Process.

Respectfully submitted on behalf of the Committee.

Mr. John Nuraney, MLA
Chair

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TERMS OF REFERENCE

On August 9, 2001 the House approved the following motion:

> *That a Special Committee to Review the Police Complaint Process be appointed and empowered to examine, inquire into and make recommendations with respect to the police complaints process in accordance with section 51.2 of the Police Act (RSBC 1996, c. 367) and in particular, without limiting the generality of the foregoing to:*
>
> 1. *Review comprehensively Part 9 (Complaint Procedure) of the Police Act and the work of the Police Complaint Commissioner;*
> 2. *Solicit and consider written and oral submissions from any interested person or organization by any means the Committee considers appropriate;*
> 3. *Submit a Report including any amendments to Part 9 that the Committee recommends to the Legislative Assembly arising out of the results of the Committee's inquiry within one year of this resolution being adopted by the House.*
>
> *The Special Committee so appointed shall have the powers of a Select Standing Committee and is also empowered:*
>
> (a) *to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;*
> (b) *to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;*
> (c) *to adjourn from place to place as may be convenient;*
> (d) *to retain such personnel as required to assist the Committee;*
>
> *and shall report to the House as soon as possible, or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.*

The Committee was re-appointed with the same Terms of Reference on February 13, 2002, enabling it to continue its work during the Third Session of the Thirty-seventh Parliament.

The Committee is expected to present a final report on its review of Part 9 of the *Police Act* and the police complaint process by August 9, 2002.

COMPOSITION OF THE COMMITTEE

Members (Third Session):

John Nuraney, MLA	Burnaby-Willingdon (Chair)
Dennis MacKay, MLA	Bulkley Valley-Stikine (Deputy Chair)
Ken Johnston, MLA	Vancouver-Fraserview
Jenny Kwan, MLA	Vancouver-Mount Pleasant
Richard Lee, MLA	Burnaby North
Brenda Locke, MLA	Surrey-Green Timbers
Patty Sahota, MLA	Burnaby-Edmonds
Patrick Wong, MLA	Vancouver-Kensington

Committee Staff:

Kate Ryan-Lloyd, Clerk Assistant and Committee Clerk (to May 15, 2002)

Craig James, Clerk Assistant and Clerk of Committees (from May 16, 2002)

Wynne MacAlpine, Committee Research Analyst

Audrey Chan, Assistant Committee Researcher

Donald A. Farquhar, Q.C. Counsel to the Committee

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ACKNOWLEDGEMENT

The Committee wishes to acknowledge the contribution of the numerous witnesses who have participated in the Committee's consultations to date. The Committee particularly commends those public servants who appeared before the Committee, at times under difficult circumstances, for their honesty and courage. They acted with professionalism and displayed a commitment to the highest ideals of public service, and thereby served the people of British Columbia well.

REPORT

The statutory officers of the British Columbia Legislature are appointed and empowered by the Legislative Assembly to oversee government activities in their respective areas of authority. Like the other statutory officers, the Police Complaint Commissioner is independent of government and reports to the Legislative Assembly through the Speaker. All statutory officers must maintain the confidence of the Members of the Legislative Assembly in carrying out their mandated responsibilities and in acting as the Assembly's representatives.

In a 1998 report to the Legislative Assembly, British Columbia's statutory officers described the standards of conduct to which they should adhere:

> *Officers of the Legislature should subscribe to the following recognized standards of public sector conduct: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Officers of the Legislature should conduct their work fairly, objectively and with due care. These attributes serve to ensure their independence is in the public interest, and to preserve the integrity of the Offices.*[1]

Pursuant to Part 9 of the *Police Act*, the Commissioner is mandated to oversee the process for handling public complaints against municipal police officers and their departments, and to ensure that the process for resolving complaints is conducted fairly, impartially, and with respect for the public interest and the rights of all involved parties. The Commissioner must also, through his leadership of the Office of the Police Complaint Commissioner, ensure that the Office can facilitate the effective and independent oversight of the process for resolving complaints against municipal police in British Columbia. In order to accomplish that mandate, the Legislative Assembly believes that the Commissioner must:

- demonstrate impartiality,
- maintain an unbiased perspective on policing and the community,
- establish and maintain the confidence of police departments and the public,
- demonstrate sensitivity to social diversity, and
- establish presence in the community and communicate effectively with the public.[2]

During April and May 2002, numerous witnesses came before the Special Committee to Review the Police Complaint Process with serious allegations regarding the conduct and performance of the Police Complaint Commissioner, Mr. Don Morrison. There was a perception among many of those witnesses that complaints were not always handled impartially. Witnesses also expressed concern about the Commissioner's financial mismanagement and lack of leadership, which led to acute dissatisfaction among staff in the Office of the Police Complaint Commissioner. Taken together, their statements called into question the competence of the Commissioner with reference to the basic standards of conduct expected of any civil servant.

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[1] British Columbia. Legislative Assembly. *Statutory Officers of the British Columbia Legislature: Fundamental Operating Principles and Related Legislation.* Victoria, BC: Legislative Assembly of British Columbia, 1998.

[2] British Columbia. Legislative Assembly. Special Committee to Appoint a Police Complaint Commissioner. *Report.* Victoria, BC: Special Committee to Appoint a Police Complaint Commissioner, 1998.

Although the Committee agrees that it is not within its mandate to evaluate the Commissioner's decisions regarding specific complaints, the Committee believes that it is empowered to consider the Commissioner's performance as it relates to his oversight of the complaint process, his expenditure of public funds, and not least, his leadership of the Office of the Police Complaint Commissioner. The abovementioned standards are a guide for assessing the work of the Police Complaint Commissioner.

RECOMMENDATIONS

After hearing from the Commissioner on Thursday, May 16, 2002, it became apparent to the Committee, based on the evidence it had received, that the Commissioner was losing the confidence of the staff, the public and the Committee.

After prolonged discussions and negotiations involving Committee counsel, counsel for the Police Complaint Commissioner, Committee members, the Commissioner himself and the Clerk of Committees, it was decided that it would be in the best interests of all parties that the Commissioner's resignation be accepted and a severance payment provided. As this matter involved a statutory officer of the House, the form of resignation was discussed with the Speaker and the Clerk of the House. Of paramount consideration was the importance of maintaining public confidence in the complaint process and the Office of the Police Complaint Commissioner.

On Monday, May 27, 2002, the Committee was advised that a letter of resignation from the Police Complaint Commissioner had been delivered to the Speaker.

At its meeting on the same day, the Committee considered the resignation and the advice it received from its counsel, Mr. Don Farquhar, Q.C., and agreed to make recommendations in an interim report to the House.

1. **The Committee recommends that the resignation of the Police Complaint Commissioner, Mr. Don Morrison, be accepted.**

2. **The Committee recommends that that the severance payment for the Police Complaint Commissioner be taken out of Vote 8, being the Estimates for the Office of the Police Complaint Commissioner.**

In view of the need to expedite the settlement, the Committee also proposes that the immediate payment of the agreed severance should be paid out of Vote 1 (Legislative Assembly) and that the expense be transferred to Vote 8 in due course.

If the Office of the Police Complaint Commissioner requires additional funding as a result of this unforeseen expense, the Committee further suggests that, as with all statutory officers, the Office apply to the Select Standing Committee on Finance and Government Services under the protocol issued for statutory officers on December 19, 2001.[3]

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[3] British Columbia. Legislative Assembly. Select Standing Committee on Finance and Government Services. *Financial Review of Statutory Officers of British Columbia.* Victoria, BC: Select Standing Committee on Finance and Government Services, 2001.